

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 ROBERT LONNELL SMITH, JR.,

Case No.: 3:21-cv-00123-MMD-WGC

4 Plaintiff

Order

5 v.

6 COUNTY OF WASHOE, et. al.,

7 Defendants.

8
9 Plaintiff is an inmate being detained at the Washoe County Jail, and has filed his civil
10 rights complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.) The Local Rules of Practice for
11 the District of Nevada provide: “Any person who is unable to prepay the fees in a civil case may
12 apply to the court for authority to proceed *in forma pauperis* (IFP). The application must be
13 made on the form provided by the court and must include a financial affidavit disclosing the
14 applicant’s income, assets, and liabilities.” LSR 1-1. When a prisoner seeks to proceed without
15 prepaying the filing fee, in addition to filing the affidavit, the prisoner is required to submit a
16 certified copy of the trust fund account statement (or institutional equivalent) for the six-month
17 period immediately preceding the filing of the complaint. The statement must be obtained from
18 the appropriate official at the prison or detention facility where the prisoner is or was confined.
19 28 U.S.C. § 1915(a)(2).

20 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full
21 amount of the filing fee. The court is required to assess, and when funds exist, collect an initial
22 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the
23 prisoner’s account or (B) the average monthly balance in the prisoner’s account for the six-
month period immediately preceding the filing of the complaint. Thereafter, whenever the

1 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
2 preceding month's income credited to the prisoners account until the filing fees are paid. The
3 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
4 (2).

5 The regular filing fee is \$400, consisting of the \$350 filing fee and a \$52 administrative
6 fee. If an inmate does not qualify for IFP status, he must pay the full \$402 filing fee. If the
7 inmate qualifies for IFP status, the \$52 administrative fee is waived, and the inmate will only pay
8 the \$350 filing fee over time.

9 Plaintiff filed an IFP application, and included a financial certificate, but it is not
10 completed or signed by the appropriate official at the Washoe County Jail.

11 Plaintiff has **30 days** from the date of this Order to either file his completed and signed
12 financial certificate or pay the full \$402 filing fee.

13 Once Plaintiff has filed his completed and signed financial certificate or paid the filing
14 fee, the court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C. §
15 1915A, or both. Both require dismissal of a complaint, or any portion thereof, that is frivolous or
16 malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief
17 against a defendant who is immune from such relief. If the complaint is dismissed on screening,
18 there will be no refund of the filing fee, and an inmate proceeding IFP is still required to pay the
19 \$350 filing fee over time. If the filing fee is paid in full, it will not be refunded if the complaint is
20 dismissed on screening.

1 If Plaintiff fails to timely file a completed and signed financial certificate or pay the filing
2 fee, this action will be dismissed.

3 **IT IS SO ORDERED.**

4 Dated: March 29, 2021

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6 William G. Cobb
7 United States Magistrate Judge
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